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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BAYKEEPER, a non-profit corporation,

Plaintiff,

v.

SVENDSEN'S BOAT WORKS, INC.,

Defendant.

Civil Case No. C 11-06687-NC

Hon. Nathanael Cousins

**NOTICE OF SETTLEMENT;
[PROPOSED] ORDER DISMISSING
COMPLAINT (Fed. R. Civ. P. 41(a)(2))**

1 **TO THE COURT AND TO THE PARTIES:**

2 **PLEASE TAKE NOTICE** that Plaintiff Baykeeper (“Baykeeper”) and Defendant
3 Svendsen’s Boat Works, Inc. (“Svendsen’s”) (collectively, the “Parties”) have reached a settlement in
4 this action, which has been executed by the Parties (the “Agreement”). The Agreement is attached as
5 Exhibit 1. As required by federal law, a copy of the Agreement was sent to the U.S. Department of
6 Justice and to the U.S. Environmental Protection Agency for a mandatory 45-day review period under
7 Section 135.5 of Title 40 of the Code of Federal Regulations. The 45-day review period commenced
8 on April 9, 2012. On May 16, 2012, the U.S. Department of Justice approved the Agreement. *See*
9 Exhibit 2.

10 Consistent with the settlement of this action, the Parties hereby respectfully request that the
11 Court 1) approve the Agreement, and 2) dismiss the case with prejudice pursuant to Federal Rule of
12 Civil Procedure 41(a)(2) subject to retaining jurisdiction over the Parties with respect to resolving
13 disputes arising under the Agreement following the entry of this Order. If any court of competent
14 jurisdiction subsequently finds that the Court lacks jurisdiction to resolve any dispute that may arise
15 under this Agreement and to enforce this Agreement in accord with the Court’s resolution of the
16 dispute, the Parties stipulate that (1) they will jointly request the Court to set aside dismissal of the
17 Complaint and to reinstate the Complaint for the sole purpose of providing the Court jurisdiction to
18 resolve the dispute and enforce this Agreement accordingly, and (2) should the Court decline to do
19 so, this Agreement shall be deemed a binding contract enforceable as a contract by the California
20 Superior Court for the County of Alameda.

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[PROPOSED] ORDER

After consideration of the Settlement Agreement between the Parties, and GOOD CAUSE
APPEARING,

IT IS HEREBY ORDERED THAT the Complaint filed in this action on December 29, 2011, is hereby
DISMISSED WITH PREJUDICE, pursuant to Federal Rule of Civil Procedure 41(a)(2), subject to the
Court having and retaining jurisdiction over the Parties with respect to resolving disputes arising under
the Settlement Agreement following the entry of this Order;

IT IS SO ORDERED

Date: May 24, 2012

NORTHERN DISTRICT OF CALIFORNIA



Honorable Nathanael Cousins
United States District Court